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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/840,110	05/05/2004	Martin Weel	1116-065	7277

71739 7590 07/23/2008

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EXAMINER	
DUONG, OANH L	

ART UNIT	PAPER NUMBER
2155	

MAIL DATE	DELIVERY MODE
07/23/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/840,110	WEEL, MARTIN	
	Examiner	Art Unit	
	OANH DUONG	2155	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *03* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 April 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *61-92* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *61-92* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *11/28/07, 01/03/08, & 04/22/08* .
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-60 and 93-108 have been canceled.

Claim 61-92 are presented for examination.

Election/Restrictions

2. Applicant's election of Group I, claims 61-92, in the reply filed on 04/23/2008 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 61-65, 67, 68, 71, 75, 77-80, 85, 87-90, and 92 are rejected under 35 U.S.C. 102(b) as being anticipated by Chislenko et al. ("Chislenko"), US 6,041,311.

Regarding claim 61, Chislenko teaches a method comprising:

comparing each of a plurality of user profiles with a target user profile of a first user associated with a media player device to select a matching user profile from the plurality of user profiles (i.e., col. 5 lines 51-55); and

effecting selection of a playlist of a matching user associated with the matching user profile for delivery to the media player device (i.e., col. 10 lines 3-6).

Regarding claims 78 and 89, those claims recites device or server for performing a method claim 1 discuss above, same rationale of rejection is applicable.

Regarding claims 62, 79, and 90, Chislenko teaches the method of claim 61 wherein the matching user profile is one of the plurality of user profiles most similar to the target user profile (i.e., col. 11 lines 9-24).

Regarding claims 63 and 88, Chislenko teaches the method of claim 61 wherein a plurality of playlists including the playlist are stored by at least one server, each of the plurality of playlists is a playlist of one of a plurality of users including the matching user, and each of the plurality of users is associated with one of the plurality of user profiles (i.e., col. 11 lines 25-29).

Regarding claim 64, Chislenko teaches the method of claim 63 wherein the step of comparing is performed by the at least one server storing the plurality of playlists (col. 19 line 40-col. 20 line 29).

Regarding claim 65, Chislenko teaches the method of claim 64 further comprising communicating the playlist from the at least one server to the media player device (col. 19 lines 42-43).

Regarding claim 67, Chislenko teaches the method of claim 66 further comprising requesting delivery of the playlist from the at least one server to the media player device (col. 21 lines 1-5).

Regarding claims 68 and 80, Chislenko teaches the method of claim 63 wherein the at least one server comprises central server (Fig. 4, col. 20 lines 28-29).

Regarding claim 71, Chislenko teaches the method of claim 63 further comprising effecting delivery of the playlist from the at least one server to the media player device (col. 21 lines 38-49).

Regarding claims 75 and 85, Chislenko teaches the method of claim 71 further comprising editing the playlist at the media player device to further include items played in excess of a threshold rate at the media player device (col. 10 lines 3-6).

Regarding claims 77, 87, and 92, Chislenko teaches the method of claim 61 wherein the media player device is a dedicated media player device (col. 21 lines 45-49).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 66, 69-70, and 81 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chislenko, in view of Immonen, US 2004/0181604 A1.

Regarding claim 66, Chislenko teaches the method of claim 63.

Chislenko does not explicitly teach comparing is performed by the media player device.

Immonen teaches system and method wherein the relevance information that is provided to users of communication devices is enhanced (abstract). Immonen teaches comparing is performed by the media player device (page 9 paragraph [0080]).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the teachings of Chislenko to perform the comparing step by the media player device as taught by Immonen. One would be motivated to do so to provide peer-based solution.

Regarding claims 69 and 81, Chislenko-Immonen teaches the method of claim 63 wherein the at least one server comprises a plurality of peer media player devices forming a Peer-to-Peer (P2P) network (Immonen, page 9 paragraph [0080]).

Regarding claim 70, Chislenko-Immonen teaches The method of claim 69 wherein comparing each of the plurality of user profiles with the target profile of the first user associated with the media player device to select the matching user profile comprises, at each peer media player device from the plurality of peer media player devices, comparing a one of the plurality of user profiles associated with a user of the peer media player device and the target user (Immonen, page 9 paragraph [0080]).

7. Claim 72, 82, and 91 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chislenko, in view of Elliott, US 2005/0165888 A1.

Regarding claims 72, 82, and 91, Chislenko teaches the method of claim 71.

Chislenko does not explicitly teach automatically updating the playlist at the media player device in response to a change made to the playlist by the matching user.

Elliot teaches a technique for data replication and propagation allows synchronization of user interfaces on peer machines in a peer-to-peer network (abstract). Elliot teaches automatically updating the playlist at the media player device in response to a change made to the playlist by the matching user (page 3 paragraph [0031]).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the teachings of Chislenko to automatically updating the playlist at the media player device in response to a change made to the playlist by the

matching user as taught by Elliot. One would be motivated to do so to enable a change made to the playlist by one user to be quickly reflected in the user interface of another user.

8. Claims 73 and 83 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chislenko, in view of Mercer et al. ("Mercer"), US 2004/0078382 A1.

Regarding claims 73 and 83, Chislenko teaches the method of claim 71.

Chislenko does not explicitly teach filtering the playlist to remove at least one item that is not compatible with the media player device.

Mercer, in the same digital media content field of endeavor, teaches filtering the playlist to remove at least one item that is not compatible with the media player device (page 3 paragraph [036]).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the teachings of Chislenko to filter the playlist to remove at least one item that is not compatible with the media player device as taught by Mercer. One would be motivated to so to enable the selected media files to be filtered as a function of a media type associated with the media player.

9. Claims 74 and 84 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chislenko, in view of Shirwadkar et al. ("Shirwadkar"), US 2004/0162830 A1.

Regarding claims 74 and 84, Chislenko teaches the method of claim 71.

Chislenko does not explicitly teach filtering the playlist to remove at least one item that is not compatible with a location of the media player device.

Shirwadkar teaches filtering the playlist to remove at least one item that is not compatible with a location of the media player device (page 4 paragraph [0050]).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the teachings of Chislenko to filter the playlist to remove at least one item that is not compatible with a location of the media player device as taught by Shirwadkar. One would be motivated to do so to provide user with recommendations that are best matching with user profile in a current location of the device.

10. Claims 76 and 86 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chislenko, in view of Sakuma et al. ("Sakuma"), US 2006/0256669.

Regarding claims 76 and 86, Chislenko teaches the method of claim 71.

Chislenko does not explicitly teach editing the playlist at the media player device to remove items played less than a threshold rate at the media player device.

Sakuma teaches editing the playlist at the media player device to remove items played less than a threshold rate at the media player device (paragraph [0057]).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the teachings of Chislenko to edit the playlist at the media player device to remove items played less than a threshold rate at the media player device as taught by Sakuma. One would be motivated to do so to enable items that do not presumably match the user's preferences to be deleted from the device.

11. Claims 78-88 are rejected under 35 U.S.C. 102(b) as being anticipated by Van Stam, US 2003/0014759 A1.

Regarding claim 78, Van Stam teaches a media player device (Fig. 1 client 11) comprising:

a communications interface communicatively coupling the media player device to a network (page 3 paragraph [0014]); and

a control system associated with the communications interface and adapted to:

compare each of a plurality of user profiles with a target user profile of a first user associated with the media player device to select a matching user profile from the plurality of user profiles (page 3 paragraph [0025]); and

effect delivery of a playlist of a matching user associated with the matching user profile from a server storing the playlist to the media player device (page 3 paragraphs [0030] and [0034]).

Response to Arguments

12. Applicant's arguments with respect to claims 61-92 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to OANH DUONG whose telephone number is (571)272-3983. The examiner can normally be reached on Monday- Friday, 9:30PM - 6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on (571) 272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Oanh Duong/
Primary Examiner, Art Unit 2155